

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IGNACIO SALCIDO,

Plaintiff,

v.

MOON, et al.,

Defendants.

No. 1:23-cv-01606-NODJ-SAB (PC)

ORDER DIRECTING CLERK OF COURT TO
FILE COMPLAINT IN THIS ACTION IN
CASE NO. 1:23-cv-01395-JLT-SAB (PC) AS
FIRST AMENDED COMPLAINT

(ECF No. 1)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to Bivens v. Six Unknown Agents, 403 U.S. 388 (1971).

The instant action was filed on November 15, 2023. (ECF No. 1.) On December 28, 2023, Plaintiff filed a motion for a preliminary injunction. (ECF No. 8.) On January 2, 2024, Findings and Recommendations were issued to deny Plaintiff's motion for a preliminary injunction. (ECF No. 9.) On January 25, 2024, Plaintiff filed objections to the Findings and Recommendations and a separate notice of appeal. (ECF Nos. 10, 11.)

On September 25, 2023, Plaintiff filed a civil rights action in this Court which was assigned case number 1:23-cv-01395-JLT-SAB (PC), Salido v. Bureau of Prisons. In that case, on November 8, 2023, the Court screened the complaint, found no cognizable claim, and granted Plaintiff thirty days to file an amended complaint. (ECF No. 10.) After Plaintiff failed to respond to the Court's order, an order to show cause why the action should not be dismissed was issued on December 19, 2023. (ECF No. 11.) Plaintiff failed to respond to the order to show cause, and Findings and Recommendations recommending dismissal of the action were issued on January

26, 2024. (ECF No. 12.) On February 7, 2024, Plaintiff filed objections to the Findings and Recommendations. (ECF No. 13.) In his objections, Plaintiff states that he submitted an amended complaint on or about November 15, 2023, which was assigned and opened as a new case in case number 1:23-cv-01395-JLT-SAB (PC), Salido v. Bureau of Prisons. (Id. at 1.) Indeed, a review of the complaint filed in case number 1:23-cv-01395-JLT-SAB (PC), Salido v. Bureau of Prisons, reflects that the complaint was submitted as an amended complaint and should have been filed in this case and not opened as a new civil rights action. (ECF No. 1.) Plaintiff's objections filed in case number 1:23-cv-01395-JLT-SAB (PC), Salido v. Bureau of Prisons makes clear that this action was improvidently opened. Plaintiff's amended complaint filed on November 15, 2023 was intended to be filed as an amended complaint in 1:23-cv-01395-JLT-SAB (PC). Therefore, the Clerk of the Court will be directed to file the November 15, 2023 amended complaint in plaintiff's earlier action, 1:23-cv-01395-JLT-SAB (PC). After the pending appeal is resolved, the Court will terminate this action as improvidently opened.

Plaintiff is informed that all court filings must bear the assigned court case number. For all future filings, plaintiff should now use Salido v. Bureau of Prisons, 1:23-cv-01395-JLT-SAB (PC).

Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to:

1. File the November 15, 2023 amended complaint (ECF No. 1) in Plaintiff's prior case, 1:23-cv-01395-JLT-SAB (PC), Salido v. Bureau of Prisons (E.D. Cal.), as his first amended complaint; and
2. The instant case will be terminated in due course after the pending appeal is resolved.

IT IS SO ORDERED.

Dated: February 14, 2024


UNITED STATES MAGISTRATE JUDGE